IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPEAL NO.920 OF 2003

The State of Maharashtra .....Appellant.
Vs.
1. Bharat Dnyanoba Solankar
2. Rajendra Babruwan Bhuse
3. Santosh Sarang Bhuse
4. Mahadeo Rajaram Balute
5. Shrikant Bharat Bhuse .....Respondents.

Mrs.V.R.Bhosale, APP for the Appellant/State.

Mr.S.S.Salunkhe, adv. for the Respondent Nos.1 to 5 absent.

CORAM : J.H.BHATIA, J.
DATE : JUNE 20, 2007.

P.C.

1. Heard Mrs.V.R.Bhosale the learned APP for the State. Perused the impugned judgment and copies of the evidence.

2. The State seeks leave to prefer appeal against the order of acquittal passed by IVth Additional Sessions Judge, Solapur for the offences punishable under Sections 143, 324 read with Section 149 of the I.P.C. and under Section 3(1)(x) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act and under Section 7(1)(d) of Protection of Civil Rights Act.

3. According to the prosecution, the complainant Rajendra Sonawane is Hindu Mahar by caste, On 23-5-2001

when he went to canteen of Suresh and lifted a jar of water, accused no.5 Shrikant uttered words 'Dhydagya' and asked the complainant as to why he had lifted water jar. Thereafter, the accused no.4 Mahadev abused him by calling 'Mahardya' and asked him to leave the canteen. Accused nos.1 to 3 began to beat the complainant with sticks, fist blows and kicks. Accused no.5 also beat with stick. One Gautam Sarode intervened and rescued. Report of the offence was lodged by Mohol police station on 25-5-2001.

4. After hearing the prosecution evidence, the learned trial Court acquitted the accused and came to a conclusion that there was no satisfactory evidence to prove that the accused persons had abused the complainant in the name of caste by calling him 'Mahardya' or 'Dhydagya'. Accused nos.1 to 3 had not abused him at all, even according to his own case. There are discrepancies in the oral evidence led by the prosecution. There was delay of 2 days in lodging the report and this is important because there was long standing enmity between two parties. The learned trial Court also observed that prosecution had failed prove caste certificate of the complainant as officer, who had issued the caste certificate was not examined as witness. She also observed that the prosecution had not produced caste certificates of the accused persons

to establish that the accused persons do not belong to scheduled caste or scheduled tribe. Though I refrain myself from expressing my opinion about the views of the trial Court on last two points pertaining the evidence about the caste of the parties, I find that other evidence about the actual incident is not inspiring confidence and in view of discrepancies in the prosecution evidence, delay of two days in lodging the report and previous enmity, I find that no purpose will be served by granting leave to prefer appeal against the acquittal.

5. In the result, leave refused. Appeal stands dismissed.

[J.H.BHATIA, J.]